


Memorandum

No. 14-264

City Attorney's Office

To: Cynthia A. Everett, City Attorney

From: D'Wayne M. Spence, Assistant City Attorney 

Date: October 28, 2014

Re: Vacation Rentals

In 2009, the City Commission established the Short Term Residential Use Committee ("STRU") for the purposes of making "recommendations to the City Commission concerning the use of residentially zoned property in light of protecting neighborhood tranquility and peaceful enjoyment of residential property". The committee presented their "Final Report of the Short Term Residential Use Committee" to the City Commission on February 16, 2012, for consideration. Unfortunately the state legislature had already enacted Florida Law 2011-119 preempting any local law, ordinance or regulation from restricting the use of vacation rentals, prohibiting vacation rentals, or regulating vacation rentals based solely on their classification, thus preventing the enactment of those recommendations.

The Florida Legislature recently enacted Florida Law 2014-71 (Senate Bill 356) revising the permitted scope of local regulations of vacation rentals. Although local governments are still prevented from prohibiting vacation rentals, effective July 1, 2014, local governments will be able to regulate vacation rental use as long as the regulations do not regulate the duration and frequency of the rentals. Section 509.032(7)(b), Florida Statutes (2014) now reads as follows:

A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or 30 regulation adopted on or before June 1, 2011.

In light of the amendment to the Section 509.032(7)(b), the following are STRU recommendations that may be considered for implementation:

- Require short-term residential rental users to register with the City and provide ownership information, identify an individual responsible for the operation, provide a telephone number for 24 hour access, and any other information deemed necessary in the registration process.
- There should be a fee associated with registration to support the implementation of the program.
- A license should be issued indicating that the property is authorized to be used as a short-term residential rental use.

October 28, 2014

Page 2

Attached is a copy of the "Short Term Residential Use Committee, April 28, 2011, Meeting Minutes Summary, Motions for Recommendations" where these recommendations were originally presented.

Please do not hesitate to contact me if you have any further questions.

DMS/ka/14-264

Attachment

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**Short Term Residential Use Committee
April 28, 2011 Meeting Minutes Summary
Motions for Recommendations**

1

Page 12: "Motion made by Ms. Ellis, seconded by Ms. Ross, that if the City should decide to allow short-term rental uses in Fort Lauderdale, that at a minimum what they should do is they should require the short-term residential uses to register with the City; and this registration should include the owner of the property, the [individual] responsible for the operation of the property, including a telephone number that can be accessed 24 hours a day, and any other information that the City deems as necessary in the registration process, because we don't know everything that the City might require; and that information should be readily accessible to the general public.

Vice Chair Forman pointed out that the **motion** only applies to houses that have obtained the transient public lodging establishment license mentioned in the proposed State statute. He explained that unless the owners are willing to do so, he did not feel they should be afforded the protection of the registration process. Ms. Ellis declined to accept this as a suggested **amendment** to the **motion**.

In a show of hands, the **motion** passed unanimously."

2

Page 12: "Motion made by Ms. Ellis, seconded by Vice Chair Forman, that all short-term rental(s) should be registered; if they are not registered with the City of Fort Lauderdale, the City should determine an appropriate consequence for that action; to register, there should be a fee that's determined by the City Commission that is appropriate to support the implementation of a registration program.

Chair Mammano commented that this would advise the City to manage the registration process without attempting to determine what the fee might be.

In a show of hands, the **motion** passed unanimously."

3

Page 12: "Motion made by Vice Chair Forman, seconded by Ms. Ellis, that along with the registration, that a license should be issued [by] the City which shows that that owner is entitled to do short-term rental at that location, and if there is a number of bona fide violations of Code Enforcement items on that property, to be determined by the City Commission, within a certain period of time to be determined by the City Commission, that that person's license will be revoked.

Mr. Mastriana suggested if the property owner is conscientious and immediately addresses the issue him- or herself, the issue "goes away" and is no longer a problem for the neighborhood; however, if the owner or agent displays "complete avoidance" of the violation until it ends on its own, this should be dealt with separately.

Vice Chair Forman advised that the registration process is intended to alleviate this issue: if the party responsible for the property does not respond, the second call would be to the Police

Department or Code Enforcement. Chair Mammano noted that this would encourage the responsible party to respond before a call is made to a City entity, at which point it would count toward the number of violations that could result in losing the license for that property.

Mr. Ledbetter pointed out that Code Enforcement works on a "nine-to-five" schedule, which is part of the problem with the existing system: no one from this Department can respond after hours. He asserted that "something like a public safety aide" must be funded in order to facilitate after-hours responses to address the complaint. Chair Mammano recommended that this be part of a separate motion.

In a show of hands, the **motion** passed unanimously."

4

Page 14: "Motion made by Ms. Ellis, seconded by Ms. Ross, to request that the City Commission assign adequate support to be available to react within a 90-minute period to any call placed under the short-term rental challenge/consequences of short-term rental.

Vice Chair Forman suggested that the **motion** be tabled until the next meeting, at which time it could be discussed at greater length.

Mr. Witschen advised that it would be easier to fund overtime for existing enforcement officers than to dedicate an officer, although the dedication of an officer was possible.

Ms. Ellis restated her **motion** as follows: that the Committee requests that the Commission assign adequate enforceable support that allows police, Code Enforcement, [or] public service aides, whoever the City determines is licensed to do that, to be able to react within a 90-minute period of a call to make a determination of the complaint. Ms. Ross **seconded** the restated **motion**.

In a show of hands, the **motion** passed 5-3 (Vice Chair Forman, Mr. Ledbetter, and Ms. Parker dissenting)."